IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

CRL.REF.No. 13 of 2007()

SC.390/2006 of DISTRICT COURT, KALPETTA
C.P.NO.70/06 OF JFCM-I, SULTHAN BATHERY.
(CRIME NO.18/06 OF AMBALAVAYAL POLICE STATION)

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PETITIONER:

REPORT FROM THE DISTRICT AND SESSIONS JUDGE, WAYANAD, KALPETTA.

BY ADV.

RESPONDENT:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S.BREEZ

THIS CRIMINAL REFERENCE HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.Ref.No.13 Of 2007

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Dated this the 18th day of October, 2007

ORDER

This Criminal Reference has been registered on the basis of the report dated 12.6.07 submitted by the learned Sessions Judge Kalpetta. Final report in crime No.18/2006 of Ambalavayal Police Station was filed alleging commission of offences punishable, inter alia, under Section 308 IPC. All accused except accused Nos. 15 to 22 had entered appearance before the learned Magistrate. Accused Nos.15 to 22 did not appear. The learned Magistrate passed an order of committal. In such order,erroneously it was shown that only accused No.21 is absconding and that accused Nos. 15-20 and 22 had also entered appearance. This error was realized long later after committal, when the matter was pending before the Additional Sessions Judge. On realizing the matter, the learned Sessions Judge has made this report dated 12.6.07.

2. I am satisfied that the order of committal passed by the learned Judicial First Class Magistrate – I Sulthanbethery dated 9.8.06 in C.P.No.70/2006 in so far as it relates to accused Nos. 15 to 20 and 22 deserves to be set aside. Fresh orders shall be passed and directions shall be issued by the learned Magistrate regarding the

splitting up of the case against accused Nos.15 to 20 and 22.

3. I am not setting aside the order of committal dated 9.8.06 in C.P.No.70/2006, in my anxiety to avoid unnecessary hardship and difficulties to accused Nos.1 to 14 who have already entered appearance before the Sessions Court.

4. Committal order dated 9th August 2006 in C.P.No.70/06 in so far as it relates to accused Nos.15 to 20 and 22 is set aside. The Sessions Court can continue with the proceedings against accused Nos. 1 to 14. In so far as accused Nos.15 to 20 and 22 are concerned, appropriate further orders shall be passed by the learned Judicial First Class Magistrate-I Sulthanbethery to split up the case against them.

This reference is answered accordingly. Communicate copies of this order to the learned Magistrate and the learned Sessions Judge.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE